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May 9, 2005

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Mail Stop: Amendment

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Re:

U.S. Utility Patent Application

Appl. No.: 10/823,626; Filed: April 14, 2004

Method and System for Adaptive Modulation Scheduling

Inventors: Alan GIN et al.

Our Ref:

1875.4090001

Sir:

Transmitted herewith for appropriate action are the following documents:

- 1. Information Disclosure Statement;
- 2. A listing of the cited documents on Form PTO-1449 (1 page);
- 3. Copies of the cited documents (AO1-AR1); and
- 4. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents May 9, 2005 Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Theodore A. Wood Attorney for Applicants Registration No. 52,374

JTH/TAW:ddc Enclosures

395844_1.DOC



In re application of:

Confirmation No.: 4639

Alan GIN et al.

Art Unit: 2661

Appl. No.: 10/823,626

Examiner: To Be Assigned

Filed: April 14, 2004

Atty. Docket No.: 1875.4090001

For: Method and System for Adaptive

Modulation Scheduling

Information Disclosure Statement

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Mail Stop: Amendment

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants have listed publication dates on the attached Form PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

Applicants have checked the appropriate boxes below.

- ☐ 1. Statement under 37 C.F.R. 1.704(d). Each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R.
 § 1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 3. Filing under 37 C.F.R. § 1.97(c). This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application.
 - a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than

three months prior to the filing of this Information Disclosure

		Statement. 37 C.F.R. § 1.97(e)(1).
	□ b.	Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item
		of information in this Information Disclosure Statement was cited
		in a communication from a foreign patent office in a counterpart
		foreign application and, to my knowledge after making reasonable
		inquiry, was known to any individual designated in 37 C.F.R.
		§ 1.56(c) more than three months prior to the filing of this
		Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
	□ c.	Attached is our PTO-2038 Credit Card Payment Form in the
		amount of \$ in payment of the fee under 37 C.F.R. §
		1.17(p).
4.	Filing under 3	37 C.F.R. § 1.97(d) This Information Disclosure Statement is being
	filed more tha	in three months after the U.S. filing date and after the mailing date
	of a Final Rejo	ection or Notice of Allowance, but before payment of the Issue Fee.
	Enclosed find	l our PTO-2038 Credit Card Payment Form in the amount of
	\$ i	n payment of the fee under 37 C.F.R. § 1.17(p); in addition:
	☐ a.	Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each
		item of information contained in this Information Disclosure
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		patent office in a counterpart foreign application not more than

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	Statement. 37 C.F.R. § 1.97(e)(1).
	☐ b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item
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	1.56(c) more than three months prior to the filing of this
	Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
⊠ 5.	Documents AA1, AB1, AC1, AO1, AP1, and AQ1 were cited in a search report
	by the European Patent Office in a counterpart European application. A copy of
	the search report is cited as document AR1 for the convenience of the Examiner.
☐ 6.	A concise explanation of the relevance of the non-English language document(s)
	appears below in accordance with 37 C.F.R. § 1.98(a)(3).
⊠ 7.	Copies of documents AO1, AP1, AQ1, and AR1 are submitted. However, in
	accordance with 37 C.F.R. § 1.98(a)(2), copies of the U.S. patents cited on the
	attached Form PTO-1449 are not submitted.
8.	Copies of the documents were cited by or submitted to the Office in an IDS that
	complies with 37 C.F.R. § 1.98(a)-(c) in Application No, filed
	, which is relied upon for an earlier filing date under 35 U.S.C.
	§ 120. Thus, copies of these documents are not attached. 37 C. F. R. § 1.98(d)

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Theodore A. Wood Attorney for Applicants Registration No. 52,374

Date: May 9, 2005

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ATTY. DOCKET NO. APPLICATION NO. 1875.4090001 10/823,626 **FORM PTO-1449 INVENTORS** Alan GIN et al. INFORMATION DISCLOSURE STATEMENT FILING DATE **ART UNIT** April 14, 2004 2661 **U.S. PATENT DOCUMENTS** EXAMINER DOC. DATE NAME CLASS SUB-CLASS DOCUMENT NUMBER FILING DATE INITIAL /B.J./ REF. AA1 03/2003 Dworkin et al. 2003/0058887 A1 /B.J./ AB1 2003/0061623 A1 03/2003 Denney et al. /B.J./ 04/2003 AC1 2003/0067877 A1 Sivakumar et al. AD1 AE1 AF1 AG1 AH1 AI1 FOREIGN PATENT DOCUMENTS **EXAMINER** DOC. TRANSLATION DOCUMENT NUMBER DATE COUNTRY CLASS SUB-CLASS INITIAL REF. Yes AJ1 No Yes AK1 No Yes AL1 No Yes AM1 No Yes AN1 No OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.) **EXAMINER** DOC. CITATION INITIAL REF. /B.J./ Fellows, D. and Jones, D., "DOCSIS™ Cable Modern Technology," IEEE Communications AO1 Magazine, IEEE, pp. 202-209 (March 2001). /B.J./ Intelligent Multiplexing Solutions for Video-On-Demand Systems, Cisco Systems, Inc. White AP1 Paper, 7 pages (Copyright 1992-2001). /B.J./ Park, W. and Wang, W., "QoS-sensitive transport of real-time MPEG video using adaptive AQ1 redundancy control," Computer Communications 24, Elsevier Science B.V., pp. 78-92 (2001). European Search Report, dated March 17, 2005, for European Patent Application Number /B.J./ AR1 04009298.3, 3 pages. DATE CONSIDERED 05/06/2008 **EXAMINER** /Blane Jackson/

2age 1 of 1

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.